

REMARKS

The Final Rejection mailed 10 October 2007 confirmed rejection of currently pending claims 1–47 and 49 and rejected claim 50 similarly to the rejection of claim 1. The Final Rejection asserts that the previous comments were considered but deemed unpersuasive. The undersigned respectfully requests reconsideration.

Rejection of Claim 47 under § 101 was maintained: the rejection suggests that the only way claim 47 may be made statutory is to use the word “stored” for a relationship of a computer program product and computer readable medium. This is respectfully asserted to be an improper requirement. Claim 47 currently recites: “...computer readable medium carrying program instructions for power gating an electronic device when executed using a computing system...” and it is viewed that the medium carrying the program instructions is an acceptable relationship to render the claim statutory. Reconsideration is respectfully requested.

Rejection of claims 1–47, 49 and 50 under 35 U.S.C. § 103(a) was maintained. In addition to reasserting the previous argument, the rejection asserts that the undersigned failed to explicitly identify specific claim limitations which would define patentable subject matter. Reconsideration is respectfully requested.

The rejection has the burden of presenting a *prima facie* case of non-patentability, should the Examiner consider the claimed invention to be lacking novelty, non-obviousness, and/or usefulness. The Examiner has previously indicated allowable subject matter should the claims be presented with specific language that has not been believed to be required. The undersigned has responded to the rejections by pointing out the failings of the *arguments presented by the rejections*.

We have continued to explain that the claims require a biometric-controlled switch ***COUPLED BETWEEN THE POWER SOURCE AND THE PROCESSOR*** for enabling energizing of the circuit (startup procedure of the processor) responsive to an assertion of a biometric activation signal and ***wherein the device is inoperable from the power source until said assertion of said biometric activation signal.***

The Cromer reference fails both of these limitations: 1) there is no switch coupled between the power source and the processor and 2) the device is not inoperable from the power source until the assertion of the biometric activation signal.

1) The Power Supply 240 is shown directly coupled to the CPU through a first bridge 212 and a second bridge 204. The power security unit 243 is provided as an input to the main power supply. The '100 patent says the power supply has two modes: a full power mode (after the correct password) and a limited auxiliary power mode in which the power supply supplies power to both the PSU and to the keyboard. As explained in the '100 patent, the PSU (upon recognition of a power-on password) sends a power-up signal to the power supply to supply full power. The PSU thus cannot function as the claimed biometric controlled switch since it is not between the power supply 243 and the CPU 200. (See, e.g., col. 3, lines 4–25).

The undersigned believes that the current assertion of the rejection regarding the PSU, keyboard, and keyboard controller is a new grounds of rejection that was not previously provided to the undersigned. The rejection seems to suggest that the PSU 243 is between the keyboard 226 and the keyboard controller 218 and that this somehow meets the claim limitation. Thus, should this rejection be maintained, the finality of the rejection is respectfully requested to be withdrawn. As noted, power is not switched by the PSU, but the PSU controls the power-supply mode between an auxiliary (partial power) mode and a full power mode.

2) The claims (e.g., claim 1) are directed to a biometric-controlled power gate controlling a power source to an electrically powered device. The “device” is, in the preferred embodiment, a personal computer. The claim element under consideration is “wherein the device is inoperable from the power source until said assertion of said biometric activation signal.” The rejection fails to articulate what correspondence is found for the claimed device. As noted in the '100 patent, the patent reference teaches a power supply having a full-power mode and an auxiliary power mode. Since the PSU and the Keyboard are both part of the computer in the '100 patent and both receive power in both modes and the PSU and keyboard are both required to be operative to enter/decode the full power password, that the device is in fact operable without actuation of the

power-on password. In other words, it is apparent that both modes provide power to the device and that the recited inoperability element is not met by the cited reference. Reconsideration is respectfully requested.

Finally, the undersigned has questioned the rejection's assertion that the Teitelbaum reference is analogous art. The rejection simply makes the assertion without support. MPEP § 2141.01(a) Analogous and Nonanalogous Art [R-3] < TO RELY ON A REFERENCE UNDER 35 U.S.C. 103, IT MUST BE ANALOGOUS PRIOR ART The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); Wang Laboratories Inc. v. Toshiba Corp., 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993); and State Contracting & Eng'g Corp. v. Condotte America, Inc., 346 F.3d 1057, 1069, 68 USPQ2d 1481, 1490 (Fed. Cir. 2003) (where the general scope of a reference is outside the pertinent field of endeavor, the reference may be considered analogous art if subject matter disclosed therein is relevant to the particular problem with which the inventor is involved).

The rejection fails to explain the reasoning behind the assertion of analogous art in Teitelbaum, and as such the undersigned has been unable to respond precisely. It would appear that the field of power control in a personal computer is different from sending identification information to a telephone network.

In view of the above remarks, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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